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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,012	10/17/2003	Mikel Urizarbarrena Aguirre	9256-19US (03-I-P-US-PA)	4390
570 7590 08/21/2007 AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103			EXAMINER MOORTHY, ARAVIND K	
			ART UNIT 2131	PAPER NUMBER
			MAIL DATE 08/21/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/688,012

Applicant(s)

AGUIRRE, MIKEL  
URIZARBARRENA

Examiner

Aravind K. Moorthy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date see attachment
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is in response to the communications on 17 October 2003.
2. Claims 1-44 are pending in the application.
3. Claims 1-44 have been rejected.

#### ***Information Disclosure Statement***

4. The examiner has considered the information disclosure statement filed on 17 October 2003.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "most active" in claims 1 and 10 is a relative term which renders the claim indefinite. The term "most active" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The term "very active" in claim 39 is a relative term which renders the claim indefinite. The term "very active" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Any claims not directly addressed are rejected on their virtue of dependency.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**6. Claims 1-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Bunker, V et al US 2003/0056116 A1 (hereinafter Bunker).**

As to claim 1, Bunker discloses a computer implemented method providing software viruses infection information in real time, the method comprising following steps:

- a) providing a computer virus utility program to a plurality of users distributed around different locations each of them operating at least one local computer [0142];
- b) obtaining information about geographical location of each of the local computers [0110-0111];
- c) carrying out, using the computer virus utility program, at least a computer virus search or scanning operation covering at least a part of at least one hard disk of the local computer or at least a part of a unit supporting information connected or connectable to the local computer [0184-0185];
- d) issuing a report containing the results of the computer virus search or scanning operation on the local computer and making available the results of the

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report through a communication network along with at least data of the geographical location of the local computer, to a center [0195-0212];

e) processing at the center a plurality of reports received from different local computers and allocating the detected computer viruses in geographical areas [0195-0212]; and

f) making available information about at least the most active computer virus at a given time in a series of selectable geographical areas corresponding to the different locations of step a) [0195-0212].

As to claim 2, Bunker discloses that the step a) of providing the computer virus utility program is carried out on line or off line [0332].

As to claim 3, Bunker discloses that the steps a) and b) are performed sequentially at any given order [0110-0111].

As to claim 4, Bunker discloses that the computer virus utility program is an anti-virus software [0298-0300].

As to claim 5, Bunker discloses that if any computer virus is detected a virus cleaning and file and system repair operation is performed at least on a scanned part of the computer providing the detection [0329].

As to claim 6, Bunker discloses that the information made available at step f) is periodically updated [0355-0357].

As to claim 7, Bunker discloses that the information provided at step f) is made available to any user of a computer through a communication network [0076].

As to claim 8, Bunker discloses that the information provided at the step d) further includes the number of times that a detected virus appears in the computer detection operation of step c) [0142-0143].

As to claim 9, Bunker discloses that the information provided at the step f) further includes the percentage of infected computers at a selected geographical area [0142-0143].

As to claim 10, Bunker discloses that the information provided at the step f) further includes a trend of spread of some of the most active detected computer virus at any given geographical area during an immediate preceding period of time [0153].

As to claim 11, Bunker discloses that the computer virus search or scanning operation of step c) is performed after a request of permission to the user [0149].

As to claim 12, Bunker discloses that the report issued at step d), also includes a definite time when the at least a computer virus search or scanning operation is performed [0149].

As to claim 13, Bunker discloses that the making available the result of the report at step d) to a center is done preserving anonymity of the user [0152].

As to claim 14, Bunker discloses that the step c) is performed on the whole of the at least one hard disk or on the whole of all hard disks of the local computer that can be selected by the user [0153].

As to claim 15, Bunker discloses that the step c) is performed on an area interchanging messages of the local computer [0156].

As to claim 16, Bunker discloses that the step c) is carried out on one or more files of the local computer [0156].

As to claim 17, Bunker discloses that the step c) also includes an heuristic exploration of the local computer in order to detect some files suspected to be infected, the results being also included as suspected files in the issued report [0188-0197].

As to claim 18, Bunker discloses that the report issued at step d) further includes the definite time at which the report issued at step d) was sent by the center [0188-0197].

As to claim 19, Bunker discloses that the report issued at step d) further includes the definite time at which the virus search or scanning operation ended [0184].

As to claim 20, Bunker discloses that the step e) further includes evaluate for each of the geographical areas the number, name and degree of spreading of detected computer viruses or files and number of them suspected to be infected [0275-0279].

As to claim 21, Bunker discloses that the plurality of local computers are distributed around a wide geographical area [0275-0279].

As to claim 22, Bunker discloses that the plurality of local computers are distributed around the world [0275-0279].

As to claim 23, Bunker discloses that the communication network is a global network such as the Internet [0275-0279].

As to claim 24, Bunker discloses that the communication network is a particular network such as a large company network [0275-0279].

As to claim 25, Bunker discloses that the computer virus search or scanning operation of step c) comprises removing the detected computer virus from an infected file or files so that the file can be used again [0289-0295].

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As to claim 26, Bunker discloses that the computer virus search or scanning operation of step c) comprises quarantining the infected file or files [0289-0295].

As to claim 27, Bunker discloses that the computer search or scanning operation of step c) comprises repair the adverse effects of the computer virus in the infected computer [0289-0295].

As to claim 28, Bunker discloses that the computer virus search or scanning operation of step c) comprises remove an infected file or files [0289-0295].

As to claim 29, Bunker discloses that the computer virus utility program is periodically updated including special anti-virus tools to fight against reported new active computer virus detected [0188-0197].

As to claim 30, Bunker discloses that the computer virus utility program loaded in the local computers includes a communication program [0275-0279].

As to claim 31, Bunker discloses that the issued reports are being sent using the communication program [0275-0279].

As to claim 32, Bunker discloses that in addition to the geographical location of the local computers, information about the computer operating system of the local computers is included in the issued reports of step d) [0275-0279].

As to claim 33, Bunker discloses that the issued reports include in addition to the number and name of computer virus found, the number and kind of files infected [0188-0197].

As to claim 34, Bunker discloses that the periodically updated information of step f) is renewed and issued as soon as new batches of reports from any particular geographical area are processed by the center at step e) [0265-0274].



As to claim 35, Bunker discloses that the periodically updated information of step f) is renewed each predetermined period of time [0265-0274].

As to claim 36, Bunker discloses that the process of step e) at the center includes statistic operations of the data from the plurality of issued reports received [0265-0274].

As to claim 37, Bunker discloses that the information of the step f) is provided from a Website [0265-0274].

As to claim 38, Bunker discloses that the Website is a site further providing anti-virus tools for the users [0318-0324].

As to claim 39, Bunker discloses that in case a very active computer virus being detected an alarm is generated to the users through the Website [0318-0324].

As to claim 40, Bunker discloses that a Web browser is used to reach the Website in order to obtain the information or to download a computer virus utility program [0318-0324].

As to claim 41, Bunker discloses that a special software utility program is used to reach the Website in order to obtain the information [0318-0324].

As to claim 42, Bunker discloses that the on line provision involves downloading a computer virus utility program from a site of a remote provider [0331-0334].

As to claim 43, Bunker discloses that the downloaded computer virus utility program resides only temporally in the local computers [0331-0334].

As to claim 44, Bunker discloses that the downloaded computer virus utility program resides permanently in the local computers [0331-0334].


*Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aravind K. Moorthy whose telephone number is 571-272-3793. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aravind K Moorthy *AM*  
August 16, 2007

  
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